



# San Diego City Attorney **MICHAEL J. AGUIRRE**

## **NEWS RELEASE**

**FOR IMMEDIATE RELEASE: September 12, 2008**

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### **CITY AWARDED MORE THAN \$4.3 MILLION IN ATTORNEY FEES AGAINST SOUTH BAY DEVELOPER ROQUE DE LA FUENTE**

**San Diego, CA**—The San Diego Superior Court has awarded the City of San Diego over \$4 million in attorney's fees as a result of prevailing in the remaining claim filed by South Bay developer Roque De La Fuente II, *Border Business Park vs. City of San Diego*, which was dismissed last June. A Superior Court Judge ruled today that the City is entitled to recover its entire attorney's fees, an award of \$4,365,869.93.

"Filing baseless litigation has its costs," said City Attorney Michael Aguirre. "Today's ruling by Judge Quinn drives that point home," he added.

The case first made headlines in 2001, when a jury awarded De La Fuente \$94.5 million in damages on his assertion that the City's actions harmed his Otay Mesa business park. The City's liability later ballooned to about \$150 million with interest, and De La Fuente sought an additional \$32 million for his own attorney's fees.

Since that time, the judgment has been reversed in a series of appellate and trial court rulings, effectively gutting De La Fuente's entire case, as well as two related cases.

On September 19, 2006, the California Court of Appeal overturned the \$94.5 million jury verdict against the City, but ordered a new trial on the alleged breach of the development agreement claim (\$29.2 million) against the City. That claim was dismissed in June, 2008.

In that June dismissal, Superior Court Judge Linda Quinn ruled that De La Fuente failed to file a proper government claim as required prior to filing the lawsuit. The City's victory with that dismissal led to today's fee award. De La Fuente's development agreement with the City provided the winner in any lawsuit with the right to recover its attorney's fees.

This latest fee award in the City's favor comes on the heels of two other awards. In April, the City received a combined \$1,261,523.66 in attorney's fees after the court dismissed two related lawsuits filed by De La Fuente.

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Those cases are *National Enterprises, Inc. vs. City of San Diego*, No. 730011 and *Otay Acquisitions LLC vs. City of San Diego*, No. GIC 753247. The Court awarded the City \$999,552.33 in the National Enterprises case and \$261,971.33 in the Otay case.

Those two lawsuits, filed by companies associated with De La Fuente, and also alleging breach of contract and taking of property from his Otay Mesa business park, were dismissed last November. In rejecting the cases, the Court agreed with the City's arguments that the lawsuits seeking over \$100 million in damages were defective. The Court ruled that those companies failed to file proper government claims, which were required prior to filing the lawsuits. The Court also found that the prior appeal the City had won, in *Border Business Park*, barred the new lawsuits.

Outside counsel for the City, Kristine Wilkes of Latham & Watkins LLP, credited the leadership of Aguirre and the City Council in achieving the victory.

"Specifically, the City Attorney provided critical strategic advice on the presentation and oral argument of the appeal," said Kristine Wilkes, outside counsel.

City Attorney Michael Aguirre inherited the De La Fuente case from his predecessor Casey Gwinn.

To view today's court ruling, visit [www.sandiegocityattorney.org](http://www.sandiegocityattorney.org), click Significant Reports and Legal Documents.

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